

**INTER-DEPARTMENT COMMUNICATION**

**TO** City Council  
**DEPARTMENT**  
**ATTENTION**  
**COPIES TO** Joan Ross  
Mayor Seng

**DATE** August 26, 2004  
**FROM** Dana W. Roper  
**DEPARTMENT** City Law  
**SUBJECT** 04R-221

Attached is a Substitute Interlocal Agreement between the City and the Village of Malcolm which should be attached to Bill No. 04R-221 (item 6 on the 8/30/04 agenda). Changes were made to address concerns Malcolm had with the audit and indemnification language.

DWR/tb

## INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and between the CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, a municipal corporation (hereinafter referred to as "Lincoln"), and the VILLAGE OF MALCOLM, LANCASTER COUNTY, NEBRASKA, a municipal corporation (hereinafter referred to as "Malcolm"), WITNESSETH:

WHEREAS, Lincoln has entered into a Lottery Operator Agreement with Lincoln's Big Red Lottery Services Ltd., a Nebraska limited partnership (hereinafter referred to as "Big Red"), for the operation of a keno lottery by Lincoln; and,

WHEREAS, it is in the best interests of each of the parties hereto to enter into this Interlocal Agreement to provide for keno lottery operations in Malcolm; and,

WHEREAS, the governing body of each of the aforesaid governmental subdivisions has duly adopted an Ordinance or Resolution authorizing the execution of this Interlocal Agreement pursuant to the provisions of the Interlocal Cooperation Act (Section 13-801 to 13-827, R.R.S. 1943, as amended).

NOW, THEREFORE, pursuant to the authority of said Act of the Legislature of the State of Nebraska and pursuant to the authority and direction of the ordinances and resolutions hereinabove referred to as adopted by each of the governmental subdivisions who are parties hereto, and in consideration of the mutual covenants and undertakings herein contained, IT IS HEREBY AGREED by and between each of the aforesaid governmental subdivisions, and each of them, and each of the successors, as follows:

1. **Duration.** The term of this agreement shall be for a period of five (5) years from the date of execution hereof, unless sooner terminated. This agreement may be terminated prior to the expiration of such term by adoption of resolutions to that effect by either of the governmental subdivisions participating herein who have executed this agreement. The termination of the agreement shall not be made effective earlier than thirty (30) days after the adoption of the resolution of termination by the governmental subdivision.
2. **Administration.** Due to the nature of the contract and the responsibilities of each governmental subdivision, it is determined that it is not necessary to create any separate legal or administrative entity for administration of the agreement. In the alternative, administration of the agreement shall be the responsibility of the Finance Director of Lincoln and the Village Chairman of Malcolm.
3. **Purpose.** The purpose of this agreement is to provide for sales outlet locations for the Lincoln keno lottery within Malcolm. The responsibilities of each of the parties hereto are defined in this agreement.
4. **Duties of the City of Lincoln.** Lincoln agrees to allow Big Red to establish sales outlet locations for the operation of the Lincoln keno lottery within Malcolm. All lottery operations in Malcolm shall be pursuant to the agreement entered into between Lincoln and

Big Red. Lincoln shall pay Malcolm 6.0% of the gross lottery proceeds generated at sales outlet locations within Malcolm.

5. **Duties of the Village of Malcolm.** Malcolm agrees to allow operation of sales outlet locations of the Lincoln lottery within Malcolm pursuant to the terms and conditions of the agreement entered into between Lincoln and Big Red. Without limiting the generality of the foregoing, Malcolm hereby adopts the satellite criteria incorporated into such agreement as the satellite criteria for Malcolm, with such changes in reference as may be required by the circumstances.

6. **Budgets.** It is not necessary to create a separate budget for this agreement and each party hereto shall include their share of any expense involved in their respective budgets.

7. **Severability.** If any provision of this agreement is determined to be invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provisions. Each provision of this contract is declared to be severable.

IN WITNESS WHEREOF the governmental subdivisions who are parties to this Agreement have, on the day and year first above written, caused this agreement to be executed by the respective officers duly authorized and have caused their respective seals to be affixed hereto.

ATTEST:

CITY OF LINCOLN,  
LANCASTER COUNTY, NEBRASKA,  
a municipal corporation,

\_\_\_\_\_  
CITY CLERK

By: \_\_\_\_\_  
MAYOR

ATTEST:

VILLAGE OF MALCOLM,  
LANCASTER COUNTY, NEBRASKA  
a municipal corporation,

\_\_\_\_\_  
VILLAGE CLERK

By: \_\_\_\_\_  
VILLAGE CHAIRMAN

## INDEMNITY AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and between the VILLAGE OF MALCOLM, LANCASTER COUNTY, NEBRASKA, a municipal corporation (hereinafter referred to as "Malcolm"), and Lincoln's Big Red Lottery Services Ltd., a Nebraska limited partnership (hereinafter referred to as "Big Red"). WITNESSETH:

WHEREAS, Malcolm has entered into a separate Interlocal Agreement with the City of Lincoln for the operation of a keno lottery in Malcolm by Big Red, and

WHEREAS, Big Red wishes to ensure the City of Malcolm that it will have no costs associated with the operation of the keno lottery other than Malcolm's own state licensing fee, which is currently a \$100 biennial fee.

NOW, THEREFORE, IT IS HEREBY AGREED by and between each of the aforesaid parties, and each of them, and each of the successors, as follows:

1. **Duties of Big Red.** Big Red shall bear the cost of any state-required audit related to Big Red's keno operations in Malcolm. Big Red further agrees to hold Malcolm harmless from any and all claims, causes of action, liability, expenses, attorney's fees and costs incurred as a result of Big Red's keno lottery operations within Malcolm, other than Malcolm's state licensing fee for the Village of Malcolm, which is currently filed with Form 50G at the cost of \$100 biennially. Big Red shall be responsible for the lottery operator licensing fee and any and all other licensing fees and expenses attributable to Big Red's keno lottery operations in Malcolm.

IN WITNESS WHEREOF the parties to this Agreement have, caused this agreement to be executed by the respective officers duly authorized as of the date first stated above.

ATTEST:

VILLAGE OF MALCOLM,  
LANCASTER COUNTY, NEBRASKA  
a municipal corporation,

\_\_\_\_\_  
VILLAGE CLERK

By: \_\_\_\_\_  
VILLAGE CHAIRMAN

ATTEST:

LINCOLN'S BIG RED LOTTERY SERVICES LTD.,  
By Lincoln's Big Red Lottery Services Inc.  
As Managing General Partner

\_\_\_\_\_

By: \_\_\_\_\_  
President & CEO